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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/586,265

07/14/2006

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT

PAPER NUMBER

3761

MAIL DATE

DELIVERY MODE

08/18/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/586,265	Applicant(s) KANEDA, MASAHIRO	
	Examiner Lynne Anderson	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2 June 2009 has been entered.

Response to Arguments

2. Applicant's arguments filed 2 June 2009 have been fully considered but they are not persuasive.

3. In response to the applicant's argument that Driskell fails to disclose curved or linear boundary lines of design patterns, it is noted that while the claims are considered in light of the present specification, they are still given their broadest reasonable interpretation. The present specification does not explicitly define the term "boundary line" as being the line between two areas of different colors on the diaper. Therefore, the term will be given its broadest reasonable interpretation (i.e. a line that provides a boundary or border). Since the curved lines printed on the diapers of Driskell border the area in which the design pattern is printed, as shown in figure 5, the curved lines form boundary lines.

4. In response to the applicant's argument that the articles of Driskell have only slight variations in design that, when packaged together, become almost the same, it is

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noted that the degree of difference between the design patterns on the diapers is not claimed. The present invention is drawn to a plurality of diapers packaged together, wherein the diapers each have different designs. The diapers of Driskell have variations in their designs, and therefore when packaged together will fulfill the claimed limitations.

5. It is further noted that the design patterns on the diapers constitute printed matter, and do not provide any new or nonobvious function to the diapers on which they are printed. Therefore, the design patterns do not distinguish the claimed diaper over the prior art, since the diapers of Driskell are otherwise identical in structure to the claimed diaper. (see MPEP 2112.01(III))

6. With respect to the claimed limitations drawn to the method of forming the diaper, it is noted that the claims are drawn to the finished article, not the method of making the article, and therefore the limitations drawn to the process of forming the product are given minimal patentable weight. Driskell discloses the physical limitations of the finished product (i.e. a diaper having a design pattern thereon), and therefore fulfills the claimed limitations.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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1. Claims 13-1444 are rejected under 35 U.S.C. 103(a) as being unpatentable over Driskell et al. (2005/0065489) in view of Bauer et al. (5,934,470).
2. Driskell discloses all aspects of the claimed invention with the exception of the diapers being packaged together. Driskell discloses a disposable diaper, as shown in figure 1, comprising a main body having a topsheet 14, a backsheet 12, and an absorber 16. The backsheet further comprises a waterproof layer, as disclosed in paragraphs [0062-0063]. A plurality of design prints are applied to the outer surface of the backsheet 12, as shown in figure 5A. The design prints have a width that is less than the width of the main body, but greater than $\frac{1}{3}$ the width of the main body, as shown in figure 4B and described in paragraphs [0118-0119]. Since the design prints are applied to the outer surface of the diaper, they do not directly touch the body of the wearer. The design print includes a boundary line having a curved pattern and a gathering of graphics of the same configuration, as shown in figure 5A.
9. Bauer teaches the packaging of a plurality of disposable diapers in a single package, as shown in figure 1. It would therefore be obvious to one of ordinary skill in the art at the time of invention to package the disposable diapers of Driskell in a package, as taught by Bauer, to allow the consumer to purchase a plurality of diapers at a single time.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./

Examiner, Art Unit 3761

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761